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Memorandum

To: G. Steven Rowe, Attorney General
From: Francis Ackerman, Assistant Attorney General
Date: March 27, 2006
Subject: Final Report/Gasoline Prices in Washington County

INTRODUCTION

This memorandum presents a final report setting forth the results of our inquiry concerning the relative levels of wholesale and retail gasoline prices in Washington County, as compared to those elsewhere in Maine. Our analysis confirms that retail gasoline prices in Washington County – and those in Aroostook County as well – are disproportionately high, although not to the extent suggested in our interim report. Similarly, our review of the causational factors that have contributed to this pricing phenomenon over the past fifteen months both develops and to some degree modifies the themes touched on in the interim report.

The purpose of the inquiry into retail gasoline prices in Washington County has been twofold: (a) to determine whether retail gasoline prices in Washington County are in fact disproportionately high in comparison to those paid in Kennebec County and other sections of the State; and, if so, (b) to identify, explore and analyze the causes underlying this pattern. Kennebec County was cited as a reference point because its retail gasoline prices are consistently among the lowest in the State.

A summary of our factual and analytical conclusions follows. In subsequent sections of this memorandum, we describe more fully:

- the history of the inquiry
- its legal context
- the facts concerning retail and wholesale gasoline prices and margins in Washington County as compared to those elsewhere in Maine
- the extent to which Washington County prices actually are disproportionate
- causational factors that contribute to Washington County's higher prices
- our conclusions.

SUMMARY

This report confirms that retail gasoline prices in Washington County are disproportionately high in comparison to those in normally competitive markets elsewhere in the State. Specifically, Washington County prices exceed the lowest county average price by 15 -18 cents, and an average for all counties except Washington and Aroostook by 10 -12 cents. These differentials cannot be explained by reference to transportation costs. Moreover, there are marked local price differences within Washington County that contradict expectations based solely on distance. The evidence makes clear that this phenomenon affects Aroostook as well as Washington County.

Our analysis indicates that these disproportionately high prices can be attributed to five factors. In no particular order, they are: (1) the influence of Canadian trans-border trade; (2) the need of low volume retailers who predominate in Maine's eastern and northern regions for higher margins as a condition of survival; (3) high levels of concentration in local markets; (4) a local competitive stalemate that discourages vigorous competition; and finally (4) the underlying effects of challenging economic conditions affecting Maine's downeast and northern regions. Local price variations within Washington County are attributable, in large part, to the influence of trans-border Canadian trade, and to a lesser extent, to localized variations in levels of concentration.

We found no evidence of illegal activity, and no evidence that wholesale pricing policies or levels played any causational role. Evaluation of available remedies is beyond the scope of this report.

ANALYSIS

I. HISTORY OF THE INQUIRY

Gasoline prices in Washington County, and Aroostook County as well, have been a controversial topic for some years. Certainly, this inquiry does not represent the first time that fuel prices in Washington County have attracted investigative attention. Past complaints, however, have not always focused on high prices. Rather, small downeast gasoline retailers have often been concerned with the threat to their margins and ultimately to their financial survival posed by low, allegedly predatory, prices charged by large, vertically integrated competitors.

For example, a predatory pricing complaint¹ emanating from Washington County was the subject of an extensive inquiry conducted by this office during calendar year 2000. Although no formal action was taken and details are not publicly available, the experience of the 2000 inquiry forms an essential part of the stalemate surrounding petroleum pricing in Washington County, and an important backdrop to the present investigation. We return to this topic in a subsequent section of this memorandum.

In the initial phase of the present inquiry, through August, 2005, we assembled limited information from several companies active as retailers and wholesalers in Washington County and elsewhere. Despite good cooperation from some quarters, the overall quality of the data was poor,

¹ Predatory pricing, a monopolization offense in violation of 10 M.R.S.A. §1102, occurs when a market participant already possessing a dominant share prices below cost for the purpose of driving out a smaller competitor.

posing an obstacle to reliable analysis. Nevertheless, we were able tentatively to confirm that prices in Washington County were disproportionately high. At that time, two factors were identified as obvious contributors to those price levels: (1) high levels of concentration and correspondingly low levels of competition in local retail gasoline markets; and (2) the strong upward influence of Canadian prices.

During the month of September and into early October, 2005, the inquiry was suspended as the gasoline price shocks that followed Hurricane Katrina absorbed our attention. We resumed work on this matter in late October, 2005.

At that point, it was determined that, since informal efforts to gather information in the first phase of the inquiry had fallen short, this office would employ compulsory process on a significant scale. Some 29 Civil Investigative Demands (“CIDs”) were issued in early November, requiring production of documents and sworn responses to detailed questionnaires by the end of the month. CIDs, like subpoenas, impose a legal obligation to produce documents or to testify. Of the 29 CIDs, 15 went to retailers and 14 to wholesalers active in Washington and Kennebec Counties. In particular, we required production of information concerning:

- retail and wholesale prices and margins for Washington County and Kennebec operations for selected months²
- relevant transportation distances and costs
- the configuration of local markets in both counties
- contracts governing the sale of gasoline at wholesale in both counties
- communications among competitors.

The quality of the data received in response to our CIDs was much improved, and its scope more complete, in comparison to the information obtained informally during the initial phase of the inquiry. As we set about the task of integrating this new material into our database,³ however, we determined that there was a need to conduct limited research in targeted areas, to further broaden our data, and thereby ensure the accuracy of our work product.

On December 18, 2005, prior to supplementing the database, we provided an interim report offering preliminary conclusions. As before, we were able to confirm the existence of a pattern of high prices in Washington County. This time, we tentatively identified an additional causational factors: the need of small to medium-sized retailers to realize higher margins to support their lower volume operations in the sparsely-populated geography of downeast Maine. We explicitly reserved judgment on the question whether wholesale prices in Washington County were out of line with those elsewhere in Maine, and if so, whether this factor played any significant causational role.

In the interval since our interim report, we have conducted telephone interviews with small “independent” gasoline retailers in Washington County. Further, we have carried out the research

² Kennebec County, a normally competitive market, was chosen as a comparative reference point.

³ All of the information gathered, by means of compulsory CID process or otherwise, is confidential by statute; even aggregated information may be disclosed only if the confidentiality of its sources can be fully protected. See 10 MRSA sec. 1107; 16 MRSA sec. 614.

needed to complete our database relative to wholesale and retail prices and margins and other relevant matters. We are confident that, with the additional information gleaned in this final phase of the inquiry, the information now on file provides a reliable basis for analysis.

II. LEGAL CONTEXT

In approaching an inquiry of this nature, and particularly in considering the availability of remedial options, it is important to understand that the Attorney General's authority in the area of gasoline prices is quite limited. The bedrock principle governing petroleum pricing in Maine is that neither wholesale nor retail prices are subject to cost-based regulation. Rather, they are set by market forces. Beyond this, the Attorney General monitors levels of competition in petroleum markets around the state under the Petroleum Market Share Act ("PMSA"). Price-fixing and predatory pricing are proscribed by familiar antitrust provisions, and may be prosecuted civilly or criminally. In addition, excessively high prices are also subject to prosecution in certain narrowly defined circumstances. Specifically, the following statutes define the legal parameters within which this inquiry was conducted.

PMSA. Under the PMSA, the Attorney General oversees a program which collects and analyzes data relating to wholesale petroleum transactions. The purpose is to provide a basis for an annual assessment of the competitive health of retail petroleum markets around the State. On the basis of that assessment, the Attorney General is called upon to offer legislative recommendations. See 10 M.R.S.A. § 1671.

Price-fixing. Any agreement among competitors with regard to pricing violates the prohibition against contracts and combinations in restraint of trade, and may be prosecuted either civilly or criminally. 10 M.R.S.A. § 1101.

Market allocation. Similarly, any agreement among competitors to divide or allocate markets, or to reciprocally refrain from competition, constitutes a *per se* violation of law.

Monopolization. Maine antitrust law also prohibits monopolization of trade or commerce in the State. 10 M.R.S.A. § 1102. Sustained below cost pricing by a monopolist or quasi-monopolist for the purpose of forcing competitors out of business, a practice known as predatory pricing, violates this provision. However, it is notoriously difficult to prove that a given price charged over a certain period was actually below the alleged perpetrator's own costs, as opposed to someone else's. While the Attorney General's office has conducted investigations of alleged predatory pricing over time in a number of industries and lines of commerce, it has not prosecuted a predatory pricing case in the petroleum industry within the past twenty years.

Price-gouging. Maine has on the statute books a venerable consumer protection law, which forbids "profiteering in necessities." 10 M.R.S.A. § 1105. Under this law, it is a crime (3 years incarceration, \$1,000 fine) "to exact or demand any unjust or unreasonable profit" in the sale of necessities including "fuel of all kinds." The only other prosecutorial tool currently available to the Attorney General to address excessively high pricing is the Unfair Trade Practices Act, 5 MRSA § 207. Under this statute, the Attorney General may seek to penalize pricing so excessive as to be "unconscionable."

III. PRICES AND MARGINS: TEN SALIENT FACTS

The following salient facts were gleaned from data obtained through telephone interviews, compulsory process and other private and publicly available sources of relevant information.

1. **Retail gasoline prices in Washington and Aroostook Counties are consistently higher than those in any other Maine county.** For calendar year 2005, average retail prices in Washington County were higher than those in any other county for four out of twelve months, viz., January, May, October and November. In the eight remaining months of the year, the highest county average retail price in the State was registered in Aroostook County; in each of those eight months, the second highest county average retail price was Washington County's. Thus, in all twelve months, the highest and second highest retail averages were recorded in Aroostook and Washington Counties.
2. **The highest average retail prices in other Maine counties are generally at least five cents below those in Washington and Aroostook.** In seven of twelve months, the Washington and Aroostook County averages were within a penny of each other; in the remaining five months, the averages for these two counties were never more than 3.1 cents apart. At the same time, in seven of twelve months, the third highest county average was invariably 5 cents or more (ranging up to 9.5 cents) below the second highest; in only three months was the third highest average within 2 cents of the second highest. The third place was occupied variously by Hancock County (6 months), Lincoln County (3 months) and Franklin, Piscataquis and Penobscot (one month each).
3. **In any given month, the lowest retail averages in Maine are likely to be found in Sagadahoc, Kennebec, Androscoggin, Waldo or Somerset.** For the twelve months of 2005, the lowest retail averages were found in Sagadahoc (lowest in three months, also second lowest in one other month); Kennebec (lowest in two months, also second lowest in an additional four months and third lowest in an additional two months); Androscoggin (lowest in two months, second lowest in an additional two months and third lowest in an additional two months); Waldo (lowest in two months, second lowest in two additional months and third lowest in two more); and Somerset County, which registered the lowest price in one month as well as the second lowest price in three additional months. Franklin and Oxford Counties also had the lowest average price in one month each. Cumberland and York Counties generally appeared to record competitive average prices (each had the third lowest average in two months). Consistently higher prices, albeit not reaching the levels recorded in Washington and Aroostook, were found in Hancock (third highest in six months), Lincoln (third highest in three months), Knox, Franklin, Oxford and Piscataquis Counties (each of the latter three was the third highest priced county in one out of twelve months).
4. **The lowest retail averages recorded for other counties are typically 16 -19 cents below Washington and Aroostook pricing levels.** The difference between the highest and lowest county retail averages for calendar year 2005 ranged from 9 cents up to 19.1 cents; was more than 18 cents in four months, more than 16 cents in seven months and below 10 cents in only one month. In sum, Washington and Aroostook were in a class by themselves, with prices significantly higher not only than areas considered

competitive (such as Kennebec, Waldo or Androscoggin Counties) but also consistently well above some comparably remote, economically depressed and sparsely populated areas (such as Piscataquis, Oxford, Franklin or Somerset).

5. **Washington County retail prices tend to exceed the lowest retail price recorded in the State by 15 -18 cents, and the statewide average price (excluding Washington and Aroostook) by approximately 10 -12 cents.** When compared to the lowest retail prices in the State, Washington County prices are markedly higher, with a differential on the order of 15 -18 cents. At the same time, it may be useful to view Washington County prices from another perspective, by comparing them to a statewide average. Here, the differential is more modest, falling within an approximate 10 -12 cent range.
6. **There are consistent differences in pricing levels within Washington County, with easterly markets, especially Calais, typically in a range 12-19 cents above markets in the western reaches of the County, such as Cherryfield.** Prices in Cherryfield tend to be well below Machias prices, typically by something on the order of 7 cents; those in Machias tend to be lower than prices paid or charged in Eastport by 4 -8 cents. Calais prices typically exceed those charged in Eastport by 1-4 cents. Cherryfield prices are generally 7 -10 cents higher than those in Augusta.
7. **During 2005, Washington County retailers realized margins which averaged 12.9 cents higher than those received by their Kennebec County counterparts.** A comparison of average weekly margins received by Kennebec and Washington County retailers indicates that throughout 2005, Washington County margins were uniformly (leaving aside one anomalous week in which the Washington County average margin was just over the line into red ink) well above those recorded by Kennebec County retailers. Margins in Kennebec ranged from 6.9 cents to 33.8 cents; while those in Washington County (with that one exception) ranged from 18.1 cents up to 48.3 cents. In 26 weeks, or exactly half of the year, the average Washington County margin was more than double the Kennebec figure. Apart from the one atypical week alluded to above, average Washington County margins exceeded those in Kennebec by anywhere from 5.1 cents up to 20.4 cents in any given week. Overall, Washington County margins exceeded Kennebec levels by an average of 12.9 cents.
8. **Margins actually realized by low volume independent operations in Washington County were somewhat below the county average, while those for higher volume retailers exceeded the average. Accordingly, the margins realized by low-volume independents exceeded the Kennebec average by a few cents less than the average 12.9 cent differential.** It should be noted that the margins actually realized by low volume independent retailers in Washington County were necessarily somewhat lower than the overall county average, since that average also reflects the higher margins that larger, more efficient operations were able to achieve. This would mean that in a typical week, the margins actually realized by independent retailers in Washington County might have exceeded the average Kennebec retail margin by a few pennies less than the 12.9 cents derived from the overall county averages.

9. **Wholesale rack prices at Portland and Bangor fall within closely comparable ranges; accordingly, wholesale pricing is not a factor contributing to disproportionately high retail prices in Washington County or elsewhere.** Product supplied to Washington County retailers is purchased at and shipped from racks or terminals located in Bangor, Bucksport and Searsport (collectively "the Bangor racks"). Retailers in southern and central Maine obtain product from South Portland racks or terminals ("the Portland racks"). Available data for wholesale prices available at the Portland and Bangor racks show that, while not identical, the range of prices offered on any given day tends to be closely comparable; any differences are statistically insignificant, with little or no impact on retail pricing.
10. **There are clear variations in the contractual terms and pricing policies offered by different wholesalers to Washington County retailers, with the result that some retailers are placed in a better position than others; however, while it may behoove retailers to shop terms, policies and prices, it does not appear that these variations have had an impact across the board on overall retail pricing levels in Washington County.** Actual wholesale prices paid by retailers in Washington County for delivered product vary from one account to another, based on differing contractual terms and different pricing policies among wholesalers; accordingly, some retailers may be placed in a better position than others, and some wholesalers may realize greater margins than others. However, the level of wholesale margins as such (as opposed to wholesale prices) has no impact on retail prices or margins; and variations among contract terms and pricing policies that work to the advantage of one retailer or the disadvantage of another do not appear to have had an impact on the overall level of retail prices in Washington County.

IV. THE EXTENT OF THE DISPROPORTION

At this point, it is appropriate to consider, on the basis of the facts reviewed above, whether and to what extent retail prices in Washington County really are out of step with those elsewhere in the State. The question can be posed in another way: after accounting for transportation costs, how much more do downeast citizens pay for their gasoline than their counterparts in Kennebec and elsewhere in the State?

Data on file indicate that a reasonable working estimate of the costs associated with transportation of gasoline is approximately 0.055 cents per gallon per mile. On this basis, some relevant transportation costs may be calculated as follows:

TABLE 1: Transportation Costs

<u>Itinerary</u>	<u>Distance/Miles</u>	<u>Cost/cents per gallon</u>
Portland-Augusta	58	3.19
Bangor-Cherryfield	59	3.24
Bangor-Machias	85	4.68
Bangor-Calais	95	5.23
Bangor-Eastport	120	6.6

Thus, transportation costs incurred by retailers in Cherryfield, or their wholesale suppliers, exceed those applicable in Augusta by a mere 0.055 cents per gallon, while the corresponding differentials for other relevant locations are:

Machias 1.5 cents Calais 2 cents Eastport 3.41 cents

Based on these facts, all other things being equal (*i.e.*, if there were no other factor present to drive Washington County prices up), one would expect retail prices in Cherryfield to approximate those in Augusta; as one traveled east, one would expect to see prices in Machias about 1.5 cents above the Augusta benchmark, and those in Calais 2 cents above Augusta. Prices at the end of the line in Eastport might be expected to exceed Augusta by about 3.5 cents.

In fact, as noted above, retail prices in Cherryfield actually tend to exceed Augusta by 7 to 10 cents. Machias adds another 7 cents (14 -17 cents above Augusta); Eastport prices add another 4-8 cents over Machias (18 -25 cents above Augusta), and Calais, though not as far east as Eastport, attains the highest prices, some 1 -4 cents above Eastport and 19 -29 cents higher than Augusta. These comparative data are portrayed below:

Table 2: Transportation Costs & Actual Price Increments

Location	Additional Transportation Cost	Actual Increment Over Augusta
Cherryfield	0.055	7 -10
Machias	1.5	14 -17
Calais	2	19 -29
Eastport	3.5	18 -25

From this perspective, Washington County prices are certainly out of proportion to those in Augusta; and they appear to become more disproportionate with increasing distance -- until one reaches Calais. The fact that Calais prices exceed not only those to the west but also Eastport prices indicates that the proximity of the Canadian border exerts a powerful upward pressure. Even after adjusting for transportation costs, prices increase exponentially as one approaches the border; and

diminish as one travels away from it. While it is difficult to quantify this impact given the number of variables in play, the proximity of the border may increase prices by a maximum (*i.e.*, at the border) as high as 5-13 cents; its influence may radiate outward from border communities, decreasing with distance, within an approximate forty-mile radius.

Viewed from another angle, on the basis of a comparison of countywide data (*i.e.*, without taking account of locational differences), Washington County prices average 15 -18 cents above the lowest county average in the State, and 10 -12 cents above an average for all counties except Washington and Aroostook. These average price differentials must be considered in light of the fact that the distances separating Washington County retailers from their source of supply are not as great as the distances product must be transported to locations in several other counties, among them Aroostook, Franklin, Oxford and Piscataquis.

Without question, these numbers also clearly indicate that retail gasoline prices in Washington County are significantly out of proportion to those elsewhere in the State. The same phenomenon is observable in Aroostook County. With these facts in mind, we turn to an analysis of the causational factors that may be implicated in conferring this undesirable distinction on the downeast and northern regions.

V. SIGNIFICANT CAUSATIONAL FACTORS.⁴

Washington and Aroostook Counties' high retail gasoline prices can be attributed to five factors. Four of these maybe termed primary, or direct causational factors; the fifth is secondary in that it contributes to the conditions underlying three of the first four.

The Canadian border. One primary factor which clearly contributes to disproportionate prices in Maine's downeast and northern regions has been identified above: the trans-border influence of Canadian prices. The fact that the only two Maine counties with population centers close to the border also have the highest prices by a considerable margin is solid evidence of the impact of Canadian prices, as is evidence showing that Calais prices tend to exceed those charged in locations more distant from the Bangor racks. This factor has a localized impact, exerting upward pressure on prices in relation to a market's proximity to the border. While the effect of this influence is difficult to quantify, it is certainly significant, perhaps increasing prices by as much as 5-13 cents at the border, and by lesser amounts up to as far as 40 miles away. The dynamic is straightforward: Canadian buyers cross into Washington or Aroostook to take advantage of prices perceived as low; entrepreneurs in border communities naturally seek to exploit the Canadian trade by increasing prices and profits according to what the market as a whole will bear.

Higher retail margins. A second primary factor that contributes significantly to disproportionate prices is the level of retail margins realized in Washington County. Downeast margins average 12.9 cents above those in Kennebec. Considering that Washington County average retail prices exceed the lowest county average in the State by 15 -18 cents and a statewide average

⁴ In enumerating the factors contributing to disproportionate prices in Washington County, we discount transportation costs, since the very purpose of the inquiry is to discover why the price differential separating Washington and Aroostook Counties from other sections exceeds transportation costs.

(excluding Washington and Aroostook) by 10 -12 cents, it appears that Washington County's higher margins account for a large part of the retail price differential.

At the same time, it should be emphasized that the figures given for Washington County retail margins are averages. Data collected pursuant to the PMSA program confirm that Washington County has a high proportion of small to modest-sized gasoline retailers. Within the average figures given above, smaller retailers will certainly realize lower margins, while larger, more efficient operations reap greater profit. Be that as it may, it is clear that small retail gasoline businesses in Washington County require higher margins than larger enterprises in Kennebec and elsewhere to enable them to survive in the context of the downeast region's decentralized and sparsely-populated rural economy.

High levels of concentration in local markets. A third primary factor affecting price levels in Washington and Aroostook is the level of competition in their local markets. As our PMSA report testifies, those markets tend to be highly concentrated (*i.e.*, they have relatively few competitors with high market shares). It is axiomatic in antitrust theory that high levels of concentration tend to result in higher prices for consumers.

A local stalemate that discourages competition. In Washington County, the effect of high levels of concentration is compounded by a competitive stalemate that discourages aggressive pricing. It has been noted above that a few modern, high volume gasoline outlets operate successfully in Washington County. Why do these operations not compete more aggressively and lead prices down for the benefit of consumers? The answer is that these large retailers find themselves in a delicate position as a result of Washington County's history of predatory pricing complaints and investigations. In an environment where low volume independents have repeatedly come forward with predatory pricing complaints, a dynamic other than competition comes into play. Larger competitors that have the ability to drop prices to win market share for themselves and incidentally benefit consumers (at least in the short term) may decline to do so for political or public relations reasons, *viz.*, to avoid making enemies. At the same time, the perceived necessity of maintaining higher prices does not exactly impose a hardship on these larger operators; rather, it provides them with a justification for reaping even higher margins than their smaller competitors.

Of course, any agreement between competitors to maintain prices at a given level, or indeed any arrangement at all between competitors concerning prices, would violate state as well as federal antitrust law. But provided all pricing decisions are reached unilaterally, there is nothing illegal about forbearance, *i.e.*, a decision by one company to avoid placing competitors at economic risk by competing aggressively on price. In the present inquiry, we have found no indication of any illegal price-fixing or other collusive activity. Any information to the contrary should be brought to our attention immediately, and would be aggressively pursued.

Economic conditions. A secondary factor that also contributes to the pattern of disproportionately high retail gasoline prices is the economic condition of Maine's eastern and northern regions. Washington and Aroostook were the only counties in Maine that continued to lose population during 2000-2004. Both counties have low population densities and are among those with elevated percentages of residents with incomes below federal poverty standards. These elements contribute indirectly to higher gasoline prices. Those elevated prices, in turn, become part and parcel of the economic challenge facing the region.

Wholesale price levels. It merits mention that no evidence was found linking wholesale pricing policies in any consistent way to disproportionate retail prices. Wholesale margins, as such, have no impact on retail prices. Wholesale prices may, but available data shows the Bangor and Portland racks tracking each other so closely that no consistent differential can be established. As to additional charges for delivered product, pricing policies vary among wholesale suppliers. Some policies or contract terms may be more onerous than others, with the result that affected retailers may face a harder struggle to survive. Anecdotally, we are aware that situations have arisen where a small retailer has suffered the indignity of seeing its supplier selling gasoline at its own outlets at a retail price below the wholesale price paid by the small competitor.⁵ However, there is adequate competition among wholesalers in the region, so that retailers who find themselves in a disadvantageous position are able to shop for a better deal.

CONCLUSION

This report confirms that retail gasoline prices in Washington County are disproportionately high in comparison to those in normally competitive markets elsewhere in the State. Specifically, Washington County prices exceed the lowest county average price by 15 -18 cents, and an average for all counties except Washington and Aroostook by 10 -12 cents. These differentials cannot be explained by reference to transportation costs. Moreover, there are marked local price differences within Washington County that contradict expectations based solely on distance. The evidence makes clear that the same phenomenon affects Aroostook County as well.

These disproportionately high prices can be attributed to five factors. In no particular order, they are: (1) the influence of Canadian trans-border trade, which may raise prices by 5-13 cents in border communities, with a diminishing impact up to 40 miles away; (2) the need of low volume retailers who predominate in Maine's eastern and northern regions for higher margins as a condition of survival; (3) high levels of concentration in local markets; (4) a local competitive stalemate that discourages aggressive pricing; and finally (5) the underlying effects of challenging economic conditions affecting these regions. Local price variations within Washington County are attributable, in large part, to the influence of trans-border Canadian trade, and to a lesser extent, to localized variations in levels of concentration.

Since there is no evidence of illegal activity, no prosecutorial remedy is recommended at this time. Beyond this, evaluation of available remedies is outside the purview of this report.

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We encourage any retailer who may be confronted with this or a similar situation to contact us.

TABLE 3: RETAIL GASOLINE PRICES

COUNTY AVERAGES 2005: SELECTED MONTHS

<u>MARCH</u>		<u>JUNE</u>		<u>OCTOBER</u>		<u>DECEMBER</u>	
Androscoggin	203.3	Waldo	211.6	Kennebec	257.6	Sagadahoc	217.7
Waldo	204.8	Androscoggin	213	Somerset	258.8	Kennebec	218.4
York	204.8	Kennebec	214.4	Waldo	260	Androscoggin	218.8
Kennebec	205.1	Cumberland	214.6	Sagadahoc	261.8	Cumberland	220.2
Somerset	205.3	Sagadahoc	214.7	York	262.6	York	220.7
Cumberland	205.5	Somerset	215.1	Cumberland	262.6	Waldo	220.8
Sagadahoc	205.9	Piscataquis	215.8	Penobscot	263.1	Oxford	221.4
Oxford	206.3	York	215.9	Androscoggin	263.2	Somerset	221.4
Piscataquis	207	Oxford	216	Franklin	263.5	Franklin	222.2
Franklin	207.5	Penobscot	216.5	Hancock	266.3	Lincoln	223.9
Knox	208	Knox	217.1	Oxford	266.7	Knox	223.9
Lincoln	209.4	Franklin	218.7	Piscataquis	267.5	Piscataquis	225
Penobscot	209.7	Lincoln	219.3	Knox	267.5	Penobscot	225.4
Hancock	212.1	Hancock	220.1	Lincoln	268.6	Hancock	227.6
Washington	218.5	Washington	227.9	Aroostook	273.3	Washington	234.1
Aroostook	221.6	Aroostook	228.1	Washington	273.4	Aroostook	236.3

TABLE 4: RETAIL GASOLINE PRICES

COUNTY AVERAGES: LOWEST & HIGHEST

	<u>January</u>	<u>February</u>	<u>March</u>	<u>April</u>	<u>May</u>	<u>June</u>
LOW	Sagadahoc 183.9 Kennebec 184.1 Cumberland 184.3	Androscoggin 191.6 Kennebec 192.4 York 192.4	Androscoggin 203.3 Waldo 204.8 York 204.8	Waldo 216.8 Somerset 219.1 Kennebec 219.4	Sagadahoc 209.4 Kennebec 210.6 Waldo 210.9	Waldo 211.6 Androscoggin 213 Kennebec 214.4
HIGH	Hancock 190.4 Aroostook 193.2 Washington 198.5	Hancock 199.6 Washington 207.3 Aroostook 207.6	Hancock 212.1 Washington 218.5 Aroostook 221.6	Hancock 224.9 Washington 233.3 Aroostook 236.2	Franklin 217.4 Aroostook 224.6 Washington 225.3	Hancock 220.1 Washington 227.9 Aroostook 228.1
	<u>July</u>	<u>August</u>	<u>September</u>	<u>October</u>	<u>November</u>	<u>December</u>
LOW	Somerset 227.6 Androscoggin 228.6 Kennebec 229.1	Franklin 247.7 Somerset 248.4 Waldo 248.9	Oxford 287.1 Penobscot 287.7 Androscoggin 289.7	Kennebec 257.6 Somerset 258.8 Waldo 260	Kennebec 213.6 Sagadahoc 215.4 Cumberland 213.2	Sagadahoc 217.7 Kennebec 218.4 Androscoggin 218.8
HIGH	Hancock 234.1 Washington 239.8 Aroostook 242.8	Hancock 251.8 Washington 257 Aroostook 258.4	Lincoln 295.2 Washington 295.2 Aroostook 296.1	Lincoln 268.6 Aroostook 273.3 Washington 273.4	Knox 223.4 Aroostook 231 Washington 232.7	Hancock 227.6 Washington 234.1 Aroostook 236.3

TABLE 5: RETAIL GASOLINE MARGINS
WEEKLY AVERAGES, KENNEBEC & WASHINGTON COUNTIES

MARGIN		MARGIN	
WEEK	DIFFERENCE	WEEK	DIFFERENCE
1	14.2	27	10.3
2	13.9	28	10.7
3	14.6	29	11.8
4	12.8	30	10.4
5	12.4	31	10.2
6	13.2	32	7.8
7	14.6	33	5.2
8	16.1	34	7.9
9	13.3	35	-10.8
10	12.5	36	8.4
11	13.4	37	8.5
12	13.7	38	5.1
13	13.3	39	7.1
14	13.9	40	11.8
15	14.5	41	12.6
16	13.8	42	17.7
17	14.5	43	20.4
18	17.3	44	20.4
19	13.7	45	18.6
20	12.7	46	18.5
21	17.7	47	17.8
22	16.5	48	16.4
23	15.6	49	12.4
24	14.4	50	14.5
25	10.8	51	17.1
26	11.3	52	15.1

TABLE 6: RETAIL GASOLINE PRICES

WASHINGTON AVERAGE VS. FOURTEEN COUNTY AVERAGE*

	MAINE <u>AVERAGE</u>	WASHINGTON <u>AVERAGE</u>	<u>DIFFERENCE</u>
MARCH	206.7	218.5	11.8
JUNE	216	227.9	11.9
OCTOBER	263.6	273.4	9.8
DECEMBER	222	234	12

* The fourteen county average excludes Washington and Aroostook

TABLE 7: BANGOR & PORTLAND RACK PRICES

PRICE RANGES COMPARED: RANDOM DAYS

	<u>BANGOR</u>	<u>PORTLAND</u>
9/14/05-9/16/05	200.57 - 220.9	199.2 - 220.15
10/17/05-10/19/05	173.29 - 192.95	172.7 - 188.95
11/15/05-11/17/05	146.18 - 157.6	145.64 - 153.75
12/13/05-12/15/05	166.85 - 171.64	164.25 - 171.07
1/23/06-1/25/06	175.99 - 186.5	174.8 - 184.9

TABLE 8: SELECTED MAINE CENSUS FACTS BY COUNTY

	POPULATION GAIN/LOSS 2000-2004	PERCENT BELOW POVERTY	POPULATION DENSITY (PERSONS/SQ. MILE
WASHINGTON	-1.1	19	13.2
AROOSTOOK	-0.7	14.3	11.1
FRANKLIN	0.9	14.6	17.4
SOMERSET	1.4	14.9	13
PISCATAQUIS	1.7	14.8	4.3
PENBOScot	2.3	13.7	42.7
CUMBERLAND	3	7.9	317.9
KENNEBEC	3	11.1	135
ANDROSCOGGIN	3.1	11.1	220.7
HANCOCK	3.4	10.2	32.6
OXFORD	3.4	11.8	26.3
KNOX	3.5	10.1	108.3
LINCOLN	4.8	10.1	73.7
SAGADAHOC	4.9	8.6	138.7
WALDO	5.8	13.9	49.7
YORK	7.3	8.2	188.5